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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,209	11/06/2006	John Rodney Keats	CU-4693 RJS	8022
26530 7590 04/02/2008 LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604				
EXAMINER WILLIAMS, MONICA L				
ART UNIT 3644		PAPER NUMBER		
MAIL DATE 04/02/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/568,209

**Applicant(s)**

KEATS, JOHN RODNEY

**Examiner**

MONICA L. WILLIAMS

**Art Unit**

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 52-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 01/24/2007.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 8, under the Description of the Preferred Embodiments, line 3, "plant plot 1".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 52-57, 59-62, 64-69, and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone (GB 2,369,980 A).
4. In re claim 52, with reference to Figures 1 and 3 and page 4 paragraph 5, Stone discloses a plant pot which, in use, is adapted to be stacked with one or more similar plant pots, the plant pot comprising a cavity (10) including a water reservoir region (26) and a soil holding region (12) located above the reservoir region, separation means (24) adapted to separate the water reservoir region from the soil holding region, and an over flow outlet in the reservoir region adapted to enable excess water to flow out of the reservoir region.
5. In re claim 53, with reference to Figure 1, Stone discloses the water reservoir region (26) is laterally defined, at least partially, by a side wall of the plant pot.

6. In re claim 54, with reference to Figure 1, Stone discloses the water reservoir region (26) is laterally defined, at least partially, by a dam wall (22) located inwardly of the side wall.
7. In re claim 55, with reference to Figure 1, Stone discloses the dam wall (22) extends upwardly from a base of the plant pot.
8. In re claim 56, with reference to Figure 1, Stone discloses the dam wall (22) substantially follows the contour of the side wall of the plant pot.
9. In re claim 57, with reference to Figure 1, Stone discloses the water reservoir region (26) is laterally defined by a combination of both the side wall of the plant pot and the dam wall (22).
10. In re claim 59, with reference to Figure 1, Stone discloses the overflow outlet comprises one or more holes in an upper portion of the dam wall (22), the entire top of the dam wall having a hole in it.
11. In re claims 60 and 61, with reference to Figure 1 and page 2 paragraph 7, Stone discloses wherein the hole is positioned at a height at or slightly above a desired water level of the water reservoir region.
12. In re claim 62, with reference to Figure 1, Stone discloses the overflow outlet comprises a gap between the upper rim of the dam wall (22) and the separation means (24).
13. In re claim 65, with reference to Figure 1, Stone discloses an overflow chamber adapted to receive excess water from the reservoir region (26).

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14. In re claim 66, with reference to Figure 1, Stone discloses the overflow chamber includes a drainage outlet (18) for water to drain therethrough.
15. In re claim 67, with reference to Figure 1, Stone discloses the overflow chamber is laterally defined by an outer surface of the dam wall (22) and at least a portion of the side wall.
16. In re claim 68, with reference to Figure 1 and page 4 paragraph 4, Stone discloses soil watering means (M) adapted to transfer water from the water reservoir region (26) to the soil holding region (12).
17. In re claim 69, with reference to Figure 1 and page 4 paragraph 4, Stone discloses the soil watering means (M) comprises an absorbent wick which extends between the water reservoir region (26) and the soil holding region (12).
18. In re claim 71, with reference to Figure 2, Stone discloses a stack of two or more plant pots.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (GB 2,369,980 A).
21. In re claim 63, Stone discloses the claimed invention except for the separation means seated on the dam wall.

22. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the dam wall (22) of Stone to reach the separation means (24) for added support and only have a portion of the dam wall comprise one or more grooves, bites, cut-outs, or slots in the upper rim of the dam wall to drain the water.

23. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (GB 2,369,980 A) in view of Johnson, Sr. (3,452,475).

24. In re claim 58, Stone discloses the claimed invention except for the overflow outlet comprising one or more holes in the side wall.

25. However, with reference to Figure 1 and col.2 lines 71-72, Johnson, Sr. discloses providing over flow apertures (43) in the side walls. The advantage of this is to drain more excess water out. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have overflow outlet comprising one or more holes in the side wall of Stone as taught by Johnson, Sr. in order to drain more excess water out.

26. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (GB 2,369,980 A) in view of Morrow (4,102,081).

27. In re claim 64, Stone discloses the claimed invention except for the gap comprising one or more grooves, bites, cut-outs, or slots in a peripheral portion of the separation means.

28. However, with reference to Figures 1 and 2, Morrow discloses cut-outs (26) in a peripheral region of the separation means (22). The advantage of this is to drain excess

water from the soil region. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the gap comprising one or more grooves, bites, cut-outs, or slots in a peripheral portion of the separation means of Stone as taught by Morrow in order to drain excess water from the soil region.

29. Claim 70 rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (GB 2,369,980 A) in view of Keats (WO 1998/056233 A).

30. In re claim 70, Stone discloses the claimed invention except for a plurality of radially extending lobe section and bridge sections.

31. However, with reference to Figure 1, Keats discloses a plant pot with a plurality of radially extending lobe sections (11) and bridge sections (13), the bridge sections connecting the lobe sections. The advantage of this is for stacking pots and draining water to the subsequent lower pots. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the pot of Stone with a plurality of radially extending lobe section and bridge sections as taught by Keats as an alternative way to stack the pots and drain water to the subsequent lower pots.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/  
Supervisory Patent Examiner, Art Unit 3644

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Supervisory Patent Examiner  
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MW 03/19/2008